I. Status of The Claims

Claims 1-137 are pending in this application, and claims 11, 12, 34, 35, 45-94, 119, 122, 123, 126, 127, and 129-137 have been withdrawn from consideration. In The Office Action mailed on September 26, 2002, claim 38 was rejected under 35 U.S.C. § 101, claims 1-10, 13-22, 25-33, 36-39, 42, 95-98, 102-110, 113-118, 120-121, 124-125 and 128 were rejected under 35 U.S.C. § 102(e), and claims 23-24, 40-41, 43-44, 99-100, and 111-112 were rejected under 35 U.S.C. § 103. Claims 95, 98, 99, 101, 103, 106, 108, and 121 have been amended, and claims 97, 105 and 107 have been cancelled.

II. Rejection Under 35 U.S.C. § 101

Applicants have amended claim 38 to overcome the Examiner's rejection under 35 U.S.C. § 101. Accordingly, Applicant's respectfully request that the rejection be withdrawn.

III. Rejection Under 35 U.S.C. § 102

The Examiner rejected claims 1-10, 13-22, 25-33, 36-39, 42, 95-98, 102-110, 113-118, 120-121, 124-125 and 128 under 35 U.S.C. § 102(e) as being anticipated by Jacobsen et al., U.S. Patent No. 6,198,394.

Claim 1 recites a "sensor device ... adapted to generate at least one of data indicative of at least one of activity, galvanic skin response, and heat flow of said individual and derived data from at least a portion of said data indicative of at least one of activity, galvanic skin response and heat flow (emphasis added)." Similarly, claim 95, as amended, recites "a processor coupled to said at least one of an accelerometer, a GSR sensor and a heat flow sensor, said processor

being adapted to generate derived data from at least a portion of at least one of said data indicative of activity, galvanic skin response and heat flow (emphasis added)." The ability to generate derived data which cannot otherwise be directly measured using a sensor is a key aspect of the present invention. This key aspect of the invention is described on page 9 of the specification as follows:

> The microprocessor of sensor device 10 may be programmed to summarize and analyze the data....Sensor device 10 may be able to derive information relating to an individual's physiological state based on the data indicative of one or more physiological parameters. The microprocessor of sensor device 10 is programmed to derive such information using known methods based on the data indicative of one or more physiological parameters. Table 2 provides examples of the type of information that can be derived, and indicates some of the types of data that can be used therefor.

Table 2 lists, among other types of derived data, calories burned, sleep onset and wake, stress level and relaxation level. Thus, claim 39, which depends from claim 1, and claim 98, which depends from claim 95, each recite "wherein said derived data comprises at least one of calories burned, sleep onset and wake, stress level and relaxation level." In addition, claim 40, which depends from claim 1, and claim 99, which depends from claim 95, each recite "wherein said derived data comprises calories burned and is based on at least one of said data indicative of activity and said data indicative of heat flow."

Jacobsen et al. describes a system for remotely monitoring personnel status that includes a sensor unit 14 having a plurality of sensors. As described in column 6, lines 21-33, the sensors include known sensors for determining parameters such as ambient temperature, body surface temperature, heart rate, breathing rate, blood pressure and oxygen saturation, and one or more accelerometers for sensing position and motion. This data, once sensed, is transmitted to soldier unit 50 that processes the data to determine whether it falls within acceptable ranges and further transmits the data to remote monitors such as the leader medic unit 320 or command unit 400.

Neither the sensor unit 14 nor the soldier unit 50 includes a processor that generates derived data, such as calories burned, sleep onset and wake, stress level or relaxation level, from at least one of data indicative of activity, galvanic skin response and heat flow as recited in claim 1 and amended claim 95. In other words, the sensor unit 14 and soldier unit 50 merely output the data collected by the sensors and do not derive any data from the data collected by the sensors. Accordingly, because these recited features are neither taught not suggested by Jacobsen et al., Applicants respectfully submit that claims 1 and 95 are allowable over Jacobsen et al. Furthermore, because claims 2-10, 13-22, 25-33, 36-39, 42, 96-98, 102-110, 113-118, 120-121, 124-125 and 128 depend, directly or indirectly, from either claim 1 or claim 95, they are believed to be allowable for the same reason.

IV. Rejection Under 35 U.S.C. § 103

The Examiner rejected claims 23-24, 40-41, 43-44, 99-100, and 111-112 under 35 U.S.C. § 103 as being unpatentable over Jacobsen et al. Each of these claims depend, directly or indirectly, from either claim 1 or claim 95, and they are thus believed to be allowable for the reason set forth in Section III above. As a result, Applicants will not address this specific rejection herein, but reserve the right to do so in the future should the need arise.

CONCLUSION

Based on the foregoing remarks, Applicants respectfully submit that claims 1-10, 13-33, 36-39, 40-44, 95-96, 98-100, 102-104, 106, 108-118, 120-121, 124-125 and 128 are in condition for allowance.

If a telephone conference would facilitate prosecution of this application in any way, the

Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,

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